IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

OP.No. 19056 of 2001(R)

PETITIONER:

K.BHARATHAN, S/O. PAITHAL,
AGED ABOUT 54 YEARS, SECRETARY,
EDAKKAD KSHEERA VYAVASAYA
SAHAKARANA SANGHAM, THOTTADA,
KANNUR 7.

BY ADV. SRI.V.RAJAGOPAL
SRI.K.N.CHATHUKUTTY

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY CHIEF SECRETARY.**

2. **DIRECTOR OF DAIRY DEVELOPMENT,**
TRIVANDRUM.

3. **EDAKKAD BLOCK CHARITABLE**
SOCIETY LTD.,S.NO.80/93, THOTTADA (863/94)
KANNUR REP.BY SECRETARY.

4. **M.K.SOBHANA, D/O. MADHAVAN, RAJ NIVAS,**
P.O., MUNDALOOR, KANNUR DIST.

5. **P.V.KRISHNA KUMAR,S/O. GOVINDAN,**
KUNHILATH HOUSE,KEEZHUNNA, KANNUR.

6. **STATE REP.BY S.H.O., EDAKKAD POLICE.**

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMAR
SRI.M.RAMESH CHANDER
SRI.M.VIJAYAKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.19056/2001

ORDER ON CMP. NO.30556/2001 IN OP. NO.19056/2001

DISMISSED

05.11.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REPRESENTATION DT. 18.10.97 SUBMITTED BY THE PETITIONER TO THE VIGILANCE AND ANTI CORRUPTION BUREAU, TRIVANDRUM.

EXT.P2:- COPY OF THE JUDGMENT IN OP. 4539/98 OF THE HONOURABLE HIGH COURT DT. 9.3.98.

EXT.P3:- COPY OF THE VIGILANCE ENQUIRY REPORT DT. 29.7.98.

EXT.P4:- COPY OF THE FORWARDING ENDORSEMENT DT. 30.7.98 OF THE SUPDT. OF POLICE VIGILANCE AND ANTI CORRUPTION BUREAU KOZHIKODE.

EXT.P5:- COPY OF THE PETITION FILED AS CMP. 1340/01 BEFORE THE ADDL. CHIEF JUDICIAL MAGISTRATE, TELLICHERRY.

EXT.P6:- COPY OF THE ORDER DT. 7.6.01 OF ADDL. CHIEF JUDICIAL MAGISTRATE TELLICHERRY.

EXT.P7(a):- COPY OF THE RECEIPT DT. 26.9.97 FOR RS. 5,000/- ISSUED BY THE 4TH RESPONDENTS IN RESPECT OF SUBSISTENCE ALLOWANCE.

EXT.P7(b):- COPY OF THE RECEIPT DT. 4.1.99 FOR RS. 5000/- DO.

EXT.P7(c):- COPY OF THE RECEIPT DT. 26.10.99 FOR RS. 9508/- DO.

EXT.P7(d):- COPY OF THE RECEIPT DT. 28.12.99 FOR RS. 4796/- DO.

EXT.P7(e):- COPY OF THE RECEIPT DT. 10.9.99 FOR RS. 4794/- DO.

EXT.P7(f):- COPY OF THE RECEIPT DT. 1.12.99 FOR RS. 4794/- DO.

EXT.P8(a):- COPY OF THE RECEIPT DT. 26.9.97 FOR RS. 5000/- ISSUED BY THE 5TH RESPECT IN RESPECT OF SUBSISTENCE ALLOWANCE.

EXT.P8(b):- COPY OF THE RECEIPT DT. 4.1.98 FOR RS. 5000/- ISSUED BY THE 5TH RESPONDENT DTO.

EXT.P8(c):- COPY OF THE RECEIPT DT. 13.9.99 FOR RS. 5545/- ISSUED BY THE 5TH RESPONDENT DO. DO.

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EXT.P8(d):- COPY OF THE RECEIPT DT. 29.9.99 FOR RS. 5545/- ISSUED BY 5TH RESPONDENT, DO. DO.

EXT.P8(e):- COPY OF THE RECEIPT DT. 25.10.99 FOR RS. 5545/- ISSUED BY THE 5TH RESPONDENT, DO. DO.

EXT.P8(f):- COPY OF THE RECEIPT DT. 25.11.99 FOR RS. 5545/- ISSUED BY THE 5TH RESPONDENT.

EXT.P8(g):- COPY OF THE RECEIPT DT. 23.12.99 FOR RS. 5543/- ISSUED BY THE 5TH RESPONDENT DO.

EXT.P9(a):- COPY OF THE RECEIPT DT. 28.9.98 FOR RS. 2506/- ISSUED BY THE VILLAGE OFFICER, EDAKKAD BEING INSTALMENT OF SUBSISTENCE ALLOWANCE.

EXT.P9(b):- COPY OF THE RECEIPT DT. 30.9.98 FOR RS. 2506/- ISSUED BY THE VILLAGE OFFICER, EDAKKAD BEING INSTALMENT OF SUBSISTENCE ALLOWANCE.

EXT.P9(c):- COPY OF THE RECEIPT DT. 28.11.98 FOR RS. 2506/- ISSUED BY THE VILLAGE OFFICER, DO. DO.

EXT.P9(d):- COPY OF THE RECEIPT DT. 29.8.98 FOR RS. 4296/- ISSUED BY THE VILLAGE OFFICER, DO. DO.

EXT.P10:- COPY OF THE RECEIPT DT. 20.9.99 FOR RS. 3411/- ISSUED BY THE DY. LABOUR COMMISSIONER , KANNUR BY SUBSISTENCE ALLOWANCE DEPOSITED BY THE PETITIONER.

EXT.P11:- COPY OF THE COMMUNICATION DT. 6.9.2000 ISSUED BY DY. DIRECTOR DAIRY DEVELOPMENT REGARDING THE AGREEMENT IN RESPECT OF RS. & R5.

EXT.P12:- COPY OF THE NOTICE ISSUED TO THE 4TH RESPONDENT BY THE SOCIETY REGARDING AUDIT OBJECTIONS AND AMOUNT PAYABLE BY R4 TO THE SOCIETY.

EXT.P13:- COPY OF THE CHARGE SHEET FILED BY THE EDAKKAD POLICE WITH CRIME 74/95.

EXT.R5(a):- COPY OF THE JUDGMENT IN OP.14611 OF 95 DT. 7.10.95.

EXT.R5(b):- COPY OF THE JUDGMENT IN OP. 15228/97 DT. 20.7.99.

EXT.R5(c):- COPY OF THE AGREEMENT.

EXT.R5(d):- COPY OF THE RECEIPT DT. 21.7.2000 ISSUED TO 4TH RESPONDENT.

EXT.R5(e):- COPY OF THE RECEIPT ISSUED TO 5TH RESPECT DT. 21.7.2000.

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.19056 OF 2001

Dated this the 5th day of November, 2007

JUDGMENT

Petitioner relies on Exts.P3 and P4 and seeks a declaration that respondents 3 to 5 are liable to reimburse the subsistence allowance paid to respondents 4 and 5. The petitioner pleads that respondents 4 and 5 obtained subsistence allowance by making false declarations and impersonation. Exts.R5(a) and(b) judgments of this Court have essentially concluded that subsistence allowances were due to respondents 4 and 5. Hence, without prejudice to any disciplinary proceedings pending, I do not find it necessary for this Court to issue any further directions or grant of relief as sought for. The writ petition fails. The same is accordingly dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.19056 OF 2001

JUDGMENT

5TH NOVEMBER, 2007.

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